

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

DAVID ECKERT,

Plaintiff,

vs.

No. CIV 13-0727 JB/WPL

THE CITY OF DEMING, DEMING  
POLICE OFFICERS, BOBBY OROSCO,  
ROBERT CHAVEZ and OFFICER  
HERNANDEZ; HIDALGO COUNTY;  
HIDALGO COUNTY SHERIFF  
OFFICERS, DAVID ARREDONDO,  
ROBERT RODRIGUEZ, PATRICK  
GREEN, DEPUTY DISTRICT ATTORNEY  
DANIEL DOUGHERTY, GILA REGIONAL  
MEDICAL CENTER, ROBERT WILCOX, M.D.,  
and OKAY ODOCHA, M.D.,

Defendants.

**FINAL JUDGMENT**

**THIS MATTER** comes before the Court on: (i) the Order of Dismissal of Okay H. Odocha, M.D., filed March 10, 2014 (Doc. 60)(“Odocha Dismissal Order”); (ii) the Order Granting Joint Motion to Dismiss 42 U.S.C. 1983 Claims with Prejudice Against Defendant Robert Wilcox, filed April 25, 2014 (Doc. 62)(“Wilcox Dismissal Order”); (iii) the Order of Dismissal with Prejudice, filed August 29, 2014 (Doc. 72)(“Third Dismissal Order”); (iv) the Order of Dismissal with Prejudice, filed August 29, 2014 (Doc. 73)(“City/County Dismissal Order”); (v) the Order, filed September 17, 2014 (Doc. 74)(“Fifth Dismissal Order”); (vi) the Notice of Voluntary Dismissal of Gila Regional Medical Center Without Prejudice, filed March 5, 2014 (Doc. 59)(“Notice”); and (vii) the Memorandum Opinion and Amended Order, filed October 31, 2015 (Doc. 81)(“MOAO”). The Odocha Dismissal Order dismissed Claims VII, VIII, IX, X,

and XI (with prejudice) and Claims XII, XIII, XIV, XV, and XVI (without prejudice) in the Complaint to Recover Damages for Deprivation of Civil Rights and Personal Injury, filed August 7, 2013 (Doc. 1) (“Complaint”) against Defendant Dr. Okay H. Odocha. See Odocha Dismissal Order at 1. The Wilcox Dismissal Order dismissed Claims VI, VII, VIII, IX, X, and XI in the Complaint with prejudice. See Wilcox Dismissal Order at 1. The Third Dismissal Order dismissed Defendants Bobby Orosco, Robert Chavez, David Arredondo, Patrick Green, Robert Rodriguez, and FNU Hernandez<sup>1</sup> with prejudice. See Third Dismissal Order at 1. The City/County Dismissal Order dismissed Defendants City of Deming and Hidalgo County with prejudice. See City/County Dismissal Order at 1. The Fifth Dismissal Order granted the Plaintiff’s Opposed Motion to Dismiss All Remaining State Law Claims Pending Against Defendant Robert Wilcox, M.D., without Prejudice, filed May 30, 2014 (Doc. 63). See Fifth Dismissal Order at 2. It thus dismissed Wilcox without prejudice. The Notice dismissed Gila Medical Center without prejudice. See Notice at 1. The MOAO dismissed Defendant Daniel Dougherty with prejudice. See MOAO at 121. Consequently, there not being any remaining claims or parties which the Court needs to address, the Court finds that final judgment in this case is appropriate.

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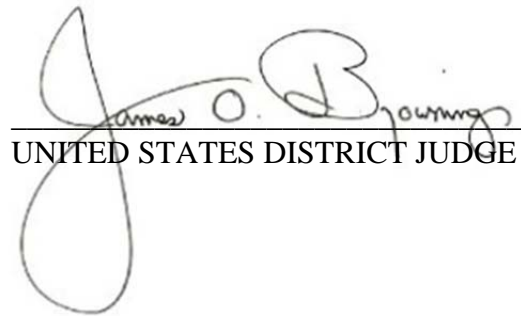
<sup>1</sup>Although the Third Dismissal Order and the underlying Joint Motion to Dismiss with Prejudice, filed January 14, 2014 (Doc. 51), both failed to mention FNU Hernandez, it is clear that his omission was an oversight and that the moving parties intended to include him. His attorney represented the other “City of Deming” defendants. See Entry of Appearance, filed September 24, 2013 (Doc. 21). Eckert’s statements at the last hearing also indicate that he considered Dougherty the sole remaining defendant:

THE COURT: Is there anything else to the case, other defendants or anything[?]

MR. KENNEDY: Nothing this would be the last defendant.

Transcript of Hearing (taken August 20, 2015) at 8:10-13 (Court, Kennedy). The Court’s citations to the transcripts of any hearings refer to the court reporter’s original, unedited versions. Any final versions may contain slightly different page and/or line numbers.

**IT IS ORDERED** that all of Plaintiff David Eckert's claims brought, or which could have been brought, against Defendants City of Deming, Bobby Orosco, Robert Chavez, FNU Hernandez, Hidalgo County, David Arredondo, Robert Rodriguez, Patrick Green, and Daniel Dougherty, are dismissed with prejudice. Eckert's claims against Okay Odocha, Robert Wilcox, Gila Regional Medical Center are dismissed without prejudice. Final judgment is entered in this case.



UNITED STATES DISTRICT JUDGE

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